

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No.851 of 2007

IN

Criminal Appeal No.706 of 2007

1. Vijay @ Ramesh Shantilal Vaja

2. Ashwin Kamabhai Kataria.

.. .. Applicants
(Orig. Accused Nos. 1 & 2)

V/s.

1. Union of India

2. The State of Maharashtra

.. .. Respondents

Mr. H. H. Ponda for Applicants.

Mr. D. A. Nalawade for Respondent No. 1.

Dr. F. R. Shaikh, Addl. Public Prosecutor for Respondent No. 2.

Mr. V. C. Gupte for Original Complainant.

**CORAM : DR. S. RADHAKRISHNAN &
SMT. ROSHAN DALVI, JJ.**

Dated : 26th September, 2007

P.C. :

1. Heard the learned Counsel for the Applicants, the learned Counsel for Respondent No. 1 - Union of India and the learned Counsel for Respondent No. 2 - State.

2. Perused the Trial Court's judgment as well as the evidence of P.W. 4 - Narendra Kantilal Divecha, who was the sole eye

witness. His evidence is contradictory. Over and above, he has not been able to identify either of the Applicants (original Accused Nos.1 and 2). Narendra could identify one assailant only on the basis of his height. He stated that the assailant's height was 5 feet. Even with regard to the assault, there were contradictions. Over and above, both the Applicants were on bail during the trial.

3. Under these circumstances, we are inclined to grant bail to both the Applicants (original Accused Nos.1 and 2) on the same terms and conditions as granted by the Trial Court. Both the Applicants shall execute fresh bail-bonds and furnish fresh sureties before the Trial Court. Both the Applicants shall report to the concerned Police Station on the first Monday of every month. Applicant No.1 shall not, in any manner, threaten or intimidate the wife and children of the deceased and shall not go near the residence or place where the deceased's wife will be carrying on travelling agency business.

4. In case there is violation of any of the aforesaid conditions,

the 2nd Respondent- State is at liberty to move immediately for cancellation of bail.

5. The Bail Application accordingly, stands disposed of.
6. Mr.Gupte, learned Counsel, assisted Mr.Nalawade, learned Counsel appearing for the 1st Respondent- Union of India in the above matter.

(DR.S. RADHAKRISHNAN, J.)

(SMT.ROSHAN DALVI, J.)